

REMARKS

Claims 1, 7, 9, 11-13, 14, 15, 22, 24, 25, 31, 33, 35-37, 38, and 39 are pending in the application. Claims 1, 7, 9, 11-13, 14, 15, 22, 24, 25, 31, 33, 35-37, 38, and 39 have been rejected. Claim 22 has been canceled.

Claim Rejections – 35 USC § 103

Claims 1, 7, 9, 11-13, 15, 22, 24, 25, 31, 33, 35-37, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mault, U.S. Patent 6,571,200 B1 9 (hereinafter “Mault”) in view of Cherry et al. U.S. Patent 5,701,894 (hereinafter “Cherry”). Applicants traverse this rejection as set forth below.

Mault is silent regarding automatically determining context. Even assuming, for argument’s sake, that Mault teaches determination of context for predicting caloric expenditure. Mault certainly does not automatically determine context using data indicative of the resistance of said individual’s skin to an electric current or from data indicative of the rate of heat flowing off said individual’s body sensor as recited in amended claims 1 and 25. The amendment makes clear that such is used in the context detection. The amendment is supported throughout the specification and specifically at para [0017] which states that Sensor device 10 may be able to derive information relating to an individual’s physiological state based on the data indicative of one or more physiological parameters. The use of data indicative of the resistance of said individual’s skin to an electric current and data indicative of the rate of heat flowing off said individual’s body is disclosed throughout the specification and specifically in Table 1. Figure 47, and the accompanying description, disclose that data derived from the sensors is used as an input to the context detector.

Applicants respectfully submit that Mault does not disclose the invention of Claim 1 and requests that the rejection be withdrawn. Claim 25 is allowable for the reasons given above for claim 1. Claims 7, 9, 11-13, 15, 24, 31, 33, 35-37, and 39 are allowable as depending either directly or indirectly from an allowable base claim.

RESPONSE AND REQUEST FOR CONTINUED EXAMINATION

UNDER 37 CFR § 1.114

Serial Number: 10/682,293

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Title: METHOD AND APPARATUS FOR AUTO JOURNALING OF CONTINUOUS OR DISCRETE BODY STATES UTILIZING
PHYSIOLOGICAL AND/OR CONTEXTUAL PARAMETERS

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Dkt: Auto-Journal-US

Claims 14 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mault in view of Cherry, and further in view of Karkanen, U.S. Patent 5,839,901 (hereinafter “Karkanen”).

Claims 14 and 38 are allowable as depending indirectly from an allowable base claim.

CONCLUSION

For all of the foregoing reasons, Applicants believe that the claims are in condition for allowance and such notice is respectfully requested. Allowance is earnestly solicited, and the Examiner is requested to contact the undersigned in case of any questions relating to this matter. Further, it is believed that the pending claims have been addressed. However, absence to reply to any specific rejection, objection, or comment does not signify agreement with or concession of that rejection, objection, or comment.

Respectfully submitted,

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By their Representatives,

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